

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

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CIVIL ACTION NO. 04-10313 JLA

NOV 5 2004

DISTRICT OF MASS.

JOHN J. HOGAN,
Plaintiff

V.

KEYSPAN HOME ENERGY SERVICES
Defendant

JOINT STATEMENT OF THE CASE

For consideration by this Honorable Court, this proposed pretrial schedule is offered:

Facts and Issues Involved:

John Hogan was employed by KeySpan as a service technician. As a result of a prior incident (where Mr. Hogan was accused of violating company rules as to directing for his own personal gain or to a third party, existing or potential customers of KeySpan to a competitor), a Last Chance Agreement with KeySpan was executed that allowed Mr. Hogan to return to his job.

What happened next was the accusation that the prohibited activity previously engaged in by Mr. Hogan had again happened in at least one, if not two instances. As a result of this accusation, Mr. Hogan was discharged from his employment.

This action anticipates the use of the business records that consist primarily of Mr. Hogan's employment history with KeySpan. Records establishing his job description, pay rate, benefits and seniority levels as well as performance evaluations and disciplinary actions should be within the possession of the Defendant and are relevant, material and necessary for trial. There is not likely to be any expert testimony offered or complicated issues of fact or law to be considered.

(1) Pre-Trial Motions and Issues

The Plaintiff is contemplating a request to return this action to the Norfolk County Superior Court.

The Defendant is contemplating filing and arguing a motion for summary judgment/dismissal.

Both parties are asking for 30 days to prepare their respective motions and for hearing on the merits at the direction of the court.

(2) Discovery

The parties having discussed the discovery issues associated with this action would respectively offer that discovery in this matter can be accomplished within 60-90 days with the exception of depositions, if any.

The Plaintiff anticipates the need for the following discovery materials, much of which entail business records and memoranda of KeySpan. It is believed that most if not all documents are in the possession of the Defendant and will be sought as to relating to the employment history of John Hogan including payroll records, performance evaluations, correspondence relating to work issues, contracts, employee manuals, disciplinary reports and management memos or correspondence between departments in any form (letter, memo, e-mail, report) relating to the investigation of the plaintiff's violation of company policy or rules relating to his discharge.

As to depositions, it is contemplated that John Hogan, Kevin Caddell, Brian Herbert, Donna Silva may be the subject of depositions or interrogatories.

It is anticipated that the documentation related to this matter in an assessment of the case or in actual preparation for trial is not considerable. As to witnesses who would testify in court at trial, it is a realistic estimate that the witness list of both parties would be less than a dozen persons.

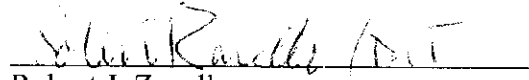
The defendant Anticipates deposing the plaintiff, Union, and witnesses to Mr. Hogan's alleged on-the-job activities. Additionally, the defendant may seek discovery regarding plaintiff's subsequent employment.

(3) Consultation by Counsel

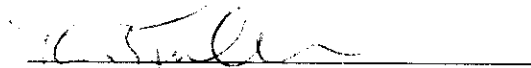
Counsel for the parties have consulted with each other in anticipation of this scheduling conference. There was a discussion as to issues of discovery, documentary as well as to witnesses. As to settlement prior to trial, no successful discussion resulting

in any way to the Plaintiff has yet been tendered.

Respectfully submitted,

A handwritten signature in dark ink, appearing to read "Robert J. Zanello", is written over a horizontal line.

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A handwritten signature in dark ink, appearing to read "Thomas R. Teehan", is written over a horizontal line.

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